

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

FAUSTINO XAVIER BETANCOURT-
COLON

Plaintiff

v.

SERITAGE KMT FINANCE LLC;
CARIBBEAN RETAIL VENTURES, INC.;
JOHN DOE 1-100

Defendants

Civil No. 22-01360

Re: Damages

NOTICE OF REMOVAL

TO THE HONORABLE COURT:

COMES NOW, the codefendant, Caribbean Retail Ventures, Inc. (hereinafter “CRV”) through its undersigned attorney, respectfully pleads and prays as follows:

I. Introduction

On May 11, 2022, Plaintiff, Faustino Xavier Betancourt-Colon (hereinafter “Betancourt” or “Plaintiff”), filed a civil action before the Commonwealth of Puerto Rico’s Court of First Instance, Bayamón Superior Court, under Civil No. BY2022CV02408. On July 13, 2022, the appearing party was served with service of process. Both the service of the process and Complaint are attached herein as Exhibits 1 and 7,¹ respectively.

As pleaded by Plaintiff in his Complaint, all claims made therein are based on Defendants’ purported violations of the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 *et seq.*). The afore-mentioned suit is thus, a civil action over which this Honorable Court has original jurisdiction that is removable to this

¹ Since Exhibits of this Notice of Removal are in the Spanish language, CRV informs that in compliance with the United States District Court for the District of Puerto Rico Local Rules, Rule 5(c) it will file a Motion for Leave and request for extension of time to submit the certified translation of the same.

District Court. The Court's original jurisdiction is even conceded by Plaintiff in his Complaint. (*See*, Exhibit 1¶ 9, page 5).

II. Grounds for Removal

Removal of this case is proper under 28 U.S.C. §§1331 because Plaintiff's case presents a federal question.

A. Federal Question

28 U.S.C. § 1331 confers original jurisdiction to this Court of "all civil actions arising under the Constitution, laws or treaties of the United States." As stated in its Complaint, Plaintiff seeks injunctive and declaratory relief against Defendants for alleged violations under the Americans with Disabilities Act ("ADA"), particularly, denial of full and equal enjoyment of Defendants' goods and services. Furthermore, Plaintiff's claims against Defendants consequently arise under the laws of the United States, which brings them within the scope of this Court's federal question jurisdiction. The case is therefore removable according to 28 U.S.C. § 1441(a).

III. Compliance with 28 U.S.C. § 1446

Per 28 U.S.C. § 1446 (procedure for removal of civil actions), CRV attaches a copy of the following to this Notice of Removal:

- (i) Complaint;
- (ii) Motion regarding Service of Process of Summons;
- (iii) Court Order;
- (iv) Service of Process of Summons (Seritage SMT Finance, LLC);
- (v) Service of process of Summons (Caribbean Retail Ventures);
- (vi) Informative Motion;
- (vii) Informative Motion

These documents (Exhibits 1 through 7) constitute all processes, pleadings, and orders served on the appearing party to date in Civil No. BY2022CV02408.

Furthermore, removal of the action is timely under 28 U.S.C. § 1446, as this Notice is being filed within 30 days after receipt of a copy of the Plaintiff's Complaint. As also required by 28 U.S.C. §

1446(d), CRV will, upon the filing of this Notice of Removal, file a copy of the same with the Commonwealth of Puerto Rico's Court of First Instance, Bayamón Superior Court, and will further serve a copy upon Plaintiff.

IV. Non-Waiver of Defenses

By removing this action from the Commonwealth of Puerto Rico's Court of First Instance, Bayamón Superior Court, Defendant does not waive any defenses available to them. Furthermore, by removing this action from the Commonwealth of Puerto Rico's Court of First Instance, Bayamón Superior Court, Defendant does not admit any of the allegations contained in Plaintiff's Complaint.

WHEREFORE, the appearing party respectfully prays that this Honorable Court takes notice of the removal of Civil No. BY2022CV02408 and include the same in its docket, with the appropriate assignment of a case docket number.

RESPECTFULLY SUBMITTED.

I CERTIFY that a true and exact copy of the foregoing motion has been sent by e-mail to the attorney of record of the Plaintiff, José Carlos Vélez-Colon, Esq. VLG@velezlawgroup.com; and via regular mail to Seritage Kmt Finance LLC, 9410 Los Romeros Ave, Montehiedra Town Center, San Juan PR 00926.

In San Juan, Puerto Rico, this 29th day of July, 2022.

/s/Liana M. Gutiérrez
USDC-PR NO. 224213

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